

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DONALD MORRIS LEE, )  
Petitioner, ) CASE NO. C14-5309-RSL-MAT  
v. )  
PATRICK GLEBE, ) ORDER RE: PETITIONER'S  
Respondent. ) PENDING MOTIONS

This is a federal habeas action proceeding under 28 U.S.C. § 2254. Currently pending before the Court are petitioner's motions for release, for production of documents, and for an evidentiary hearing. Respondent has filed a brief in opposition to petitioner's motions. The Court, having reviewed petitioner's motions, respondent's response thereto, and the balance of the record, hereby finds and ORDERS as follows:

(1) Petitioner's motion for release on bail (Dkt. 12) is DENIED. Bail for a prisoner seeking post-conviction release is reserved for "extraordinary cases involving special circumstances or a high probability of success." *United States v. Mett*, 41 F.3d 1281, 1282 (9th Cir. 1994); *Land v. Deeds*, 878 F.2d 318 (9th Cir. 1989) (per curium). Special circumstances include a "serious deterioration of health while incarcerated and unusual delay in the appeal

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01 process." *Mett*, 41 F.3d at 1282 n. 4, citing *Salerno v. United States*, 878 F.2d 317 (9th Cir.  
02 1989).

03 In this case, petitioner fails to establish such special circumstances. Petitioner also  
04 fails to demonstrate a high probability of success on the merits of his federal habeas claims.  
05 Accordingly, petitioner's request for release pending resolution of this collateral attack on his  
06 state court conviction is without merit and must be denied.

07 (2) Petitioner's motions for production of documents (Dkt. 14) and for an  
08 evidentiary hearing (Dkt. 15) are STRICKEN. Petitioner seeks an Order from this Court  
09 directing various individuals and entities to produce documents which petitioner believes are  
10 necessary for him to effectively litigate this federal habeas action. Petitioner also asks that the  
11 Court hold an evidentiary hearing in this matter. Petitioner's requests are premature.  
12 Respondent has yet to file an answer to petitioner's federal habeas petition. Respondent will  
13 submit in conjunction with his answer the portions of the state court record which he deems  
14 relevant to resolution of petitioner's federal habeas claims. Only after the Court reviews  
15 respondent's answer, and the portions of the state court record submitted with the answer, will it  
16 be able to assess whether an evidentiary hearing is required and whether discovery should be  
17 authorized. Petitioner's motions for production of documents and for an evidentiary hearing  
18 are therefore stricken without prejudice to petitioner renewing the motions at a later date.

19 DATED this 6th day of June, 2014.

20 

21 Mary Alice Theiler  
22 Chief United States Magistrate Judge